

1982 WL 189235 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 5, 1982

***1 Re: Installment/Purchase Contracts and Lease/Purchase Agreements**

Mr. Jack O. Yost
Executive Vice President
Dougherty, Dawkins, Strand & Yost, Inc.
700 Lumber Exchange Building
Minneapolis, Minnesota 55401

Dear Mr. Yost:

Your letter dated March 25, 1982, was received by this office and has been forwarded to me for review. The State of South Carolina has, effective July 1, 1981, enacted a 'State Consolidated Procurement Code'. This Procurement Code, however, applies only to State governmental bodies and specifically excludes all local political subdivisions such as counties and municipalities. While the political subdivisions of the state are required by statute, Section 11-35-50, to develop and adopt procurement laws embodying competitive procurement principals, this adoption is not mandatory until July 1, 1983. Section 11-35-2030 of the Consolidated Procurement Code deals with multi-term contracts and states that a contract for supplies or services may only be entered into for a period of one (1) year, unless the State Budget and Control Board approves a longer term. It is provided, however, that a contract may be extended or renewed under the restriction that payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds. But as I pointed out above, this restriction applies only to State governmental bodies and not to municipalities.

The concept of sovereign immunity, as applied to State and governmental bodies, has been abrogated in this state by case law where contracts are concerned. Therefore, any contract entered into with any governmental body, including municipalities, would be enforceable just as if the contract were entered into with any private contracting entity. I am enclosing excerpts from the South Carolina Consolidated Procurement Code and the referenced case for review by your general counsel.

I sincerely hope that this will be of assistance to you.

Sincerely,

Judith Evans Finuf
Assistant Attorney General

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